

ASSEMBLY BILL

No. 1779

Introduced by Assembly Member Karnette

January 4, 2006

An act to amend Sections 51206, 51210, 51210.1, 51210.2, and 51223 of the Education Code, and to amend Section 3543.2 of the Government Code, relating to physical education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1779, as introduced, Karnette. Elementary schools: physical education.

Existing law requires that the physical education curriculum standards for grades 1 to 8, inclusive, shall be developed by an elementary physical education specialist employed by the Superintendent of Public Instruction.

This bill would require that the curriculum used in the physical education classes for grades 1 to 8, inclusive, shall be approved by the Curriculum Development and Supplemental Materials Commission of the State Board of Education.

Existing law requires that pupils in grades 1 to 6, inclusive, and pupils in grades 1 to 8, inclusive, who attend an elementary school, engage in not less than 200 minutes of physical education each 10 schooldays.

This bill instead would require that pupils in grades 1 to 6, inclusive, and pupils in grades 1 to 8, inclusive, who attend an elementary school, engage in not less than 20 minutes of physical education each schoolday, if mutually agreed upon through collective bargaining. This bill would require that, if a mutual agreement is not reached through collective bargaining, the specified pupils engage in not less than 200 minutes of physical education each 10 schooldays, with

physical education taught a minimum of 3 schooldays each school week.

By requiring that physical education be taught on a minimum of 3 schooldays each school week, this bill would impose a state-mandated local program.

Existing law gives public school employee organizations the right to represent their members in their employment relations with public school employers and limits the scope of representation to matters relating to wages, hours of employment, and other terms and conditions of employment, as defined. Existing law provides that subjects other than those specified may not be included as part of collective bargaining.

This bill would make physical education curriculum subject to meeting and negotiation.

By requiring public school employers to negotiate additional matters, the bill would impose a state-mandated local program.

This bill also will delete obsolete references in existing law and make other nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51206 of the Education Code is
- 2 amended to read:
- 3 51206. The Legislature hereby finds and declares ~~that the all~~
- 4 *of the following:*
- 5 (a) The physical fitness and motor development of children in
- 6 the public elementary schools is of equal importance to that of
- 7 other elements of the curriculum.
- 8 ~~The Legislature further finds that, in~~

(b) *In order to improve the level of physical education in the elementary grades, the Superintendent of Public Instruction shall, through the regular budget process, employ an elementary physical education specialist to develop model curriculum standards in physical education for grades 1 to 8, inclusive, provide technical assistance to teachers, and assist school districts in the development of their physical education programs. The Curriculum Development and Supplemental Materials Commission of the state board shall approve the curriculum used by physical education programs for grades 1 to 8, inclusive.*

SEC. 2. Section 51210 of the Education Code is amended to read:

51210. The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(a) English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.

(b) Mathematics, including concepts, operational skills, and problem solving.

(c) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(d) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.

(e) Visual and performing arts, including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(f) Health, including instruction in the principles and practices of individual, family, and community health.

(g) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind; *Instruction in physical education shall be provided for a total period of time of not less than 20 minutes each schoolday, exclusive of recesses and the lunch period, if mutually agreed upon through collective bargaining. If an agreement is not reached through collective bargaining, instruction in physical education shall be provided for not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period, with physical education taught a minimum of three schooldays each school week.*

(h) Other studies that may be prescribed by the governing board.

SEC. 3. Section 51210.1 of the Education Code is amended to read:

51210.1. (a) (1) The Legislature finds and declares all of the following:

(A) The Education Code currently mandates *20 minutes of physical education each schoolday, if mutually agreed upon through collective bargaining, or not less than 200 minutes of physical education every 10 schooldays, if the agreement is not reached through collective bargaining*, for pupils in elementary school. Recent studies have shown that the vast majority of children and youth are not physically fit.

(B) According to a March 1997 report by the Centers for Disease Control, the percentage of children and adolescents who are overweight has more than doubled in the last 30 years. Most of this increase occurred within the last 10 years.

(C) Nearly 40 percent of children of ages five to eight years have health conditions that significantly increase their risk of early heart disease.

(D) Some 70 percent of girls, and 40 percent of boys, who are from 6 to 12 years of age do not have enough muscle strength to do more than one pullup.

(E) Most children lead inactive lives. On the average, first through fourth graders spend two hours watching television on schooldays and spend close to three and one-half hours watching television on weekend days.

(2) It is, therefore, the intent of the Legislature that all children shall have access to a high-quality, comprehensive, and

1 developmentally appropriate physical education program on a
2 regular basis.

3 (b) (1) Each school district selected by the Superintendent of
4 ~~Public Instruction~~ pursuant to paragraph (2) shall report to the
5 ~~Superintendent of Public Instruction~~ in the Coordinated
6 Compliance Review as to the extent of its compliance with
7 subdivision (g) of Section 51210 for grades 1 to 6, inclusive,
8 during that school year.

9 (2) The ~~Superintendent of Public Instruction~~ shall select not
10 less than 10 percent of the school districts of the state to report
11 compliance with the provisions set forth in paragraph (1). The
12 school districts selected shall provide a random and accurate
13 sampling of the state as a whole.

14 (c) For purposes of determining compliance with paragraphs
15 (1) and (2) of subdivision (b), the ~~Superintendent of Public~~
16 ~~Instruction~~ shall not count the time spent in recesses and the
17 lunch period.

18 (d) A school district that fails to comply with the existing
19 statutory requirements shall issue a corrective action plan to the
20 ~~State Department of Education~~ *department* in accordance with
21 the Coordinated Compliance Review process.

22 (e) This section ~~shall does not be applicable~~ *apply* to high
23 schools.

24 SEC. 4. Section 51210.2 of the Education Code is amended to
25 read:

26 51210.2. (a) The Legislature hereby finds and declares that
27 the physical fitness and motor development of children in the
28 public elementary schools is of equal importance to that of other
29 elements of the curriculum.

30 (b) It is, therefore, the intent of the Legislature to encourage
31 each school district maintaining an elementary school composed
32 of any of grades 1 to 6, inclusive, to do one of the following:

33 (1) Employ a credentialed physical education teacher to
34 provide instruction in physical education for each class of grades
35 1 to 6, inclusive, within any elementary school in the district for
36 ~~a total period of time of not less than 200 minutes each 10~~
37 ~~school days, exclusive of recesses and the lunch period~~ *specified*
38 *in subdivision (g) of Section 51210.*

39 (2) Provide each teacher providing instruction in physical
40 education to any of grades 1 to 6, inclusive, within any

1 elementary school in the district with yearly theoretical practical
2 training in developmental physical education, as set forth in the
3 Physical Education Framework adopted by the State Department
4 of Education pursuant to Section 33350, except that
5 any teacher who has successfully completed one college level
6 course in elementary physical education shall not be subject to
7 this paragraph.

8 SEC. 5. Section 51223 of the Education Code is amended to
9 read:

10 51223. Notwithstanding the provisions of Sections 51210 and
11 Section 51222, instruction in physical education in an elementary
12 school maintaining any of grades 1 to 8 shall be for a total period
13 of time of not less than 200 minutes each 10 schooldays,
14 exclusive of recesses and the lunch period specified in
15 subdivision (g) of Section 51210.

16 SEC. 6. Section 3543.2 of the Government Code is amended
17 to read:

18 3543.2. (a) The scope of representation shall be limited to
19 matters relating to wages, hours of employment, and other terms
20 and conditions of employment. "Terms and conditions of
21 employment" mean health and welfare benefits as defined by
22 Section 53200, leave, transfer and reassignment policies, safety
23 conditions of employment, class size, *instruction in physical*
24 *education pursuant to subdivision (g) of Section 51210*,
25 procedures to be used for the evaluation of employees,
26 organizational security pursuant to Section 3546, procedures for
27 processing grievances pursuant to Sections 3548.5, 3548.6,
28 3548.7, and 3548.8, *and the layoff of probationary certificated*
29 *school district employees, pursuant to Section 44959.5 of the*
30 *Education Code, and alternative compensation or benefits for*
31 *employees adversely affected by pension limitations pursuant to*
32 *Section 22316 of the Education Code*, to the extent deemed
33 reasonable and without violating the intent and purposes of
34 Section 415 of the Internal Revenue Code. In addition, the
35 exclusive representative of certificated personnel has the right to
36 consult on the definition of educational objectives, the
37 determination of the content of courses and curriculum, and the
38 selection of textbooks to the extent such matters are within the
39 discretion of the public school employer under the law. All
40 matters not specifically enumerated are reserved to the public

1 school employer and may not be a subject of meeting and
2 negotiating, ~~provided except that nothing herein may be~~
3 ~~construed to this section does not~~ limit the right of the public
4 school employer to consult with any employees or employee
5 organization on any matter outside the scope of representation.

6 (b) Notwithstanding Section 44944 of the Education Code, the
7 public school employer and the exclusive representative shall,
8 upon request of either party, meet and negotiate regarding causes
9 and procedures for disciplinary action, other than dismissal,
10 including a suspension of pay for up to 15 days, affecting
11 certificated employees. If the public school employer and the
12 exclusive representative do not reach mutual agreement, ~~then~~ the
13 provisions of Section 44944 of the Education Code shall apply.

14 (c) Notwithstanding Section 44955 of the Education Code, the
15 public school employer and the exclusive representative shall,
16 upon request of either party, meet and negotiate regarding
17 procedures and criteria for the layoff of certificated employees
18 for lack of funds. If the public school employer and the exclusive
19 representative do not reach mutual agreement, ~~then~~ the
20 provisions of Section 44955 of the Education Code shall apply.

21 (d) Notwithstanding Section 45028 of the Education Code, the
22 public school employer and the exclusive representative shall,
23 upon request of either party, meet and negotiate regarding the
24 payment of additional compensation based upon criteria other
25 than years of training and years of experience. If the public
26 school employer and the exclusive representative do not reach
27 mutual agreement, ~~then~~ the provisions of Section 45028 of the
28 Education Code shall apply.

29 (e) Pursuant to Section 45028 of the Education Code, the
30 public school employer and the exclusive representative shall,
31 upon the request of either party, meet and negotiate a salary
32 schedule based on criteria other than a uniform allowance for
33 years of training and years of experience. If the public school
34 employer and the exclusive representative do not reach mutual
35 agreement, ~~then~~ the provisions of Section 45028 of the Education
36 Code requiring a salary schedule based upon a uniform
37 allowance for years of training and years of experience shall
38 apply. A salary schedule established pursuant to this subdivision
39 shall not result in the reduction of the salary of any teacher.

1 SEC. 7. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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